IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

Criminal Application No. 2029/2006 in Criminal Appeal No. 319/2006

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : D.S. Zoting & A.P.Lavande, JJ.
DATED : 17th August 2006

Heard Mr. Ghuge, Advocate for the applicant and Mr. Patel, learned Additional Public Prosecutor on behalf of respondent-State. The appellant has been convicted and sentenced for the offence punishable under Section 302 of the Indian Penal Code to undergo imprisonment for life and to pay fine. He has filed application under section 389 of Code of Criminal Procedure for suspension of sentence and grant of bail. The murdered man was one Laxman who was the uncle of the appellant. The conviction is based on direct evidence of Bhagwan (PW 1) and other members of the family of deceased Laxman. Bhagwan (PW

1) had received injuries at the time of occurrence of the incident. The quarrel took place between deceased and accused no.1 and on hearing noise of the quarrel, he (PW 1 Bhagwan) came out of the house. At that time, he noticed that his father was knocked down by the appellant and thereafter he pierced the pointed edge of umbrella on the chin of the deceased. His evidence finds support in the evidence given by his sisters. Dr. Doifode (PW 7) noticed the following three injuries :-

i) C.L.W. over chin (below mandible, middle) of size 3 x ½ x ½ c.m. deep.
ii) Abrasion over left knee of size 3 x 2 c.m. and 2 x 2 c.m.
iii) bleeding through left ear.

However, according to Dr. Zine (PW 8) who conducted autopsy on the dead body of the deceased, the cause of death of the deceased is head injury. He noticed internal injuries to the head of the deceased. He admits that the said injury is

possible due to fall on the ground. In such circumstances, the possibility of sustaining injuries to the brain due to fall on the ground cannot be ruled out. It is to be noted that there was quarrel between deceased and appellant. Witness Bhagwan also received injuries. Considering nature of injuries received by deceased and the fact that no weapon was used by appellant, we find it fit to suspend the sentence of life imprisonment and to grant bail to the appellant-accused. The appellant is ordered to be released on bail of Rs. 15,000/- with one solvent surety in the like amount to the satisfaction of Registrar (J) of this Court.

Hamdast allowed.

JUDGE JUDGE

A.